
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF TOURISM**NOTICE 235 OF 2019****TOURISM AMENDMENT BILL 2019****INVITATION FOR THE PUBLIC TO COMMENT ON THE TOURISM AMENDMENT BILL**

I, Derek Andre Hanekom, Minister of Tourism, hereby publish the Tourism Amendment Bill for public comment.

Interested parties and organisations are invited to submit within sixty (60) days of publication of the notice in the gazette, written representations on the proposed Bill to the following address:

By post: The Director General
Department of Tourism
Private Bag x424
PRETORIA
0001

Attention: Ms MM Setwaba

By hand: Ground Floor (Reception), Tourism House, 17 Trevenna Street Sunnyside.

By email: msetwaba@tourism.gov.za

Any inquiries in connection with the proposed Tourism Amendment Bill may be directed to Ms Mmaditlonki Setwaba at 012 444 6312.

Comments received after the closing may not be considered.



Derek Hanekom, MP
Minister: Tourism

REPUBLIC OF SOUTH AFRICA

TOURISM AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory
summary of Bill published in Government Gazette No. 42404 of 15 April 2019)*
(The English text is the official text of the Bill)

(MINISTER OF TOURISM)

[B — 2019]

It200318

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.
_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Tourism Act, 2014, so as to provide for certain definitions; to provide for the determination of thresholds for short-term home sharing; to provide for the renaming of the South African Tourism Board as South African Tourism; to provide for additional competence requirements of tourists guides; to provide for the regulation of safety in relation to tourist guiding and the improvement of the tourist guiding experience; and to provide for matters connected herewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 3 of 2014

1. Section 1 of the Tourism Act, 2014 ("principal Act"), is hereby amended—

- (a) by the deletion of the definition of "Council"; and
- (b) by the insertion after the definition of "regulation" of the following definition:

" 'short-term home rental' means the renting or leasing on a temporary basis, for reward, of a dwelling or a part thereof, to a visitor;".

Amendment of section 7 of Act 3 of 2014

2. Section 7 of the principal Act is hereby amended by the deletion in subsection (1)(a) of the word "and" at the end of subparagraph (iii), and the addition of the following subparagraph:

"(v) thresholds with regard to short-term home rental; and".

Substitution of heading of Chapter 3 of Act 3 of 2014

3. The following heading is hereby substituted for the heading of Chapter 3 of the principal Act:

"South African Tourism [Board]".

Substitution of section 9 of Act 3 of 2014

4. The following section is hereby substituted for section 9 of the principal Act:

"Continued existence of South African Tourism Board

9. (1) The South African Tourism Board, established by section 2 of the Tourism Act, 1993 (Act No. 72 of 1993), continues to exist as

a juristic person known as "South African Tourism", despite the repeal of that Act by section 62.

(2) South African Tourism is governed by the Board contemplated in section 13."

Amendment of section 10 of Act 3 of 2014

5. Section 10 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"Functions of [Board] South African Tourism";

(b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The functions of [**the Board**] South African Tourism are to—";

(c) by the deletion in subsection (1) of the word "and" at the end of paragraph (e), the substitution of the expression "; and" for the full stop at the end of paragraph (f) and the addition of the following paragraph:

"(g) implement and manage the national grading system for tourism contemplated in section 28(1)."; and

(d) by the substitution for subsection (2) of the following subsection:

"(2) [**The Board**] South African Tourism must perform any function imposed upon it in accordance with a policy direction not in conflict with this Act issued by the Minister."

Amendment of section 11 of Act 3 of 2014

6. Section 11 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:
- "Powers of [Board] South African Tourism";**
- (b) by the substitution for the words preceding paragraph (a) of the following words:
- "Without derogating from its power generally to perform legal acts as a juristic person, **[the Board] South African Tourism** may—";
- (c) by the substitution in paragraph (c) for the words preceding subparagraph (i) of the following words:
- "insure [the Board] South African Tourism against—";** and
- (d) by the substitution for paragraph (d) of the following paragraph:
- "(d) employ persons who are necessary for the performance of the functions of **[the Board] South African Tourism**; and".

Repeal of section 12 of Act 3 of 2014

7. Section 12 of the principal Act is hereby repealed.

Amendment of section 21 of Act 3 of 2014

8. Section 21 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"Funds of [Board] South African Tourism";

(b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The funds of [Board] South African Tourism consist of—";

(c) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

"(b) any money paid to [the Board] South African Tourism for services rendered;";

(d) by the substitution in subsection (1) for paragraph (d) of the following paragraph:

"(d) any other amounts to which [the Board] South African Tourism is or may become entitled.";

(e) by the substitution for subsection (2) of the following subsection:

"(2) [The Board] South African Tourism may use its funds for defraying expenditure incurred in performing its functions in terms of this Act.";

(f) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"[The Board] South African Tourism may invest any of its funds not immediately required—"; and

(g) by the substitution for subsection (4) of the following subsection:

"(4) **[The Board]** South African Tourism may charge and recover fees for any services rendered."

Substitution of section 22 of Act 3 of 2014

9. The following section is hereby substituted for section 22 of the principal Act:

"Application of Public Finance Management Act to **[Board] South African Tourism**

22. The Public Finance Management Act applies to **[the Board]** South African Tourism."

Insertion of section 22A in Act 3 of 2014

10. The following section is hereby inserted after section 22 of the principal Act:

"Delegations and assignments by the Board

22A. (1) The Board may in writing and subject to such conditions as it may determine, delegate or assign any of its powers or duties in terms of this Act—

(a) to a committee of the Board;

(b) to an employee of South African Tourism; or

(c) with the concurrence of the Minister, to any other suitable body.

(2) A delegation or assignment under subsection (1)—

(a) must be in writing;

- (b) does not divest the Board of the power delegated or duty assigned;
- (c) does not prevent the Board from exercising the power or performing the duty so delegated or assigned; and
- (d) may at any time be withdrawn by the Board."

Amendment of section 24 of Act 3 of 2014

11. Section 24 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:
"Appointment and responsibilities of chief executive officer of [Board] South African Tourism"; and
 - (b) by the substitution for subsection (4) for the following subsection:

"(4) The chief executive officer is responsible for the efficient management of the business and affairs of [**the Board**] South African Tourism and must perform any function delegated or assigned by the Board."

Amendment of section 27 of Act 3 of 2014

12. Section 27 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:
"Employment and remuneration policy of [Board] South African Tourism and appointment of staff"

(b) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

"(a) The Board must determine an employment and remuneration policy applicable to personnel of **[the Board]** South African Tourism.";

(c) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(a) after consulting the Board, must determine the staff establishment necessary to assist **[the Board]** South African Tourism in carrying out its functions; and"; and

(d) by the substitution for subsection (3) of the following subsection:

"(3) An employee of **[the Board]** South African Tourism is employed subject to terms and conditions determined by the Board in accordance with the employment policy contemplated in subsection (1).".

Amendment of section 28 of Act 3 of 2014

13. Section 28 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister **[may]** must develop a national grading system for tourism with a view to maintaining or enhancing the standards and quality of tourism services, facilities and products.".

Repeal of sections 29 to 44 of Act 3 of 2014

14. Sections 29 to 44 of the principal Act are hereby repealed.

Amendment of section 47 of Act 3 of 2014

15. Section 47 of the principal Act is hereby amended—
- (a) by the insertion of "(1)" before the words preceding paragraph (a); and
 - (b) by the addition of the following subsection:

"(2) Nothing in this section prevents the Tourism Complaints Officer from, on own initiative, referring a matter to a regulatory authority with jurisdiction over that matter."

Amendment of section 48 of Act 3 of 2014

16. Section 48 of the principal Act is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (f) of the following paragraph:

"(f) liaise with the South African Tourism, the Institute, Provincial Registrars, tourist guides, associations of tourist guides, education and training authorities, organs of state, the South African Police Service, provincial consumer affairs bodies and any other person or organisation to—

- (i) facilitate the growth and development of the tourist guiding sector; and

(ii) cooperate on matters of mutual interest in the tourist guiding sector."; and

(b) by the addition of the following subsection after subsection (2):

"(3) Whenever the Registrar—

(a) is to be absent from office, the Registrar must prior to his or her absence and in writing, designate an official in the Department to act as Registrar; or

(b) is for any other reason unable to act as Registrar, the Minister must, in writing, designate another official in the Department to act as Registrar."

Amendment of section 49 of Act 3 of 2014

17. Section 49 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"A Provincial Registrar must, in addition to any other duties or responsibilities that may be determined by the relevant MEC—"; and

(b) by the substitution in subsection (2) for paragraph (g) of the following subsection:

"(g) if he or she has reason to believe that any person, company or close [corperation] corporation contravenes section 57, lay a charge with the South African Police Service."; and

(c) by the addition of the following subsection after subsection (2):

"(3) Whenever a Provincial Registrar—

- (a) is to be absent from office, the Provincial Registrar must prior to his or her absence and in writing, designate an official in the Department to act as Provincial Registrar; or
- (b) is for any other reason unable to act as Provincial Registrar, the relevant MEC must, in writing, designate another official in the Department to act as Registrar."

Amendment of section 50 of Act 3 of 2014

18. Section 50 of the principal Act is hereby amended—

- (a) by the insertion after subsection (1) of the following subsection:

"(1A) The Minister may prescribe time frames and procedures for the consideration of applications contemplated in subsection (1) by a Provincial Registrar."

- (b) by the substitution in subsection (3) for paragraph (c) of the following paragraph:

"(c) loses his or her South African citizenship or right of permanent residence or work [permit] visa in the Republic;"; and

- (c) by the insertion after subsection (5) of the following subsection:

"(5A) A person registered in in terms of subsection (1) may for reward, whether monetary or otherwise, in relation to a commercial undertaking—

- (a) provide guide services in relation to areas of interest to visitors or tourists;

- (b) interpret the cultural heritage of an area for visitors or tourists;
- (c) assist or coach visitors or tourists in specific recreational activities they undertake; and
- (d) undertake any other activity determined by the Minister by notice in the Gazette."

Substitution of section 51 of Act 3 of 2014

19. The following section is hereby substituted for section 51 of the principal Act:

"Competence

51. The competence referred to in section 50—

- (a) must be [determined] registered by the South African Qualifications Authority in accordance with the national qualifications framework contemplated in the National Qualifications Framework Act, 2008 (Act No. 67 of 2008); and
- (b) may include any additional requirements prescribed by the Minister by notice in the Gazette."

Amendment of section 52 of Act 3 of 2014

20. Section 52 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The National Registrar must in the prescribed manner, after consultation with the MEC in each province, the

Provincial Registrars and stakeholder groupings, prepare **[and publish]** a code of conduct and ethics, with which every registered tourist guide must comply, for approval by the Minister, who must publish it by notice in the *Gazette*."

Amendment of section 55 of Act 3 of 2014

21. Section 55 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(a) A Provincial Registrar who institutes an investigation or causes an investigation to be instituted as contemplated in subsection (1) must by notice, sent by registered post or any other effective method, inform the tourist guide of the charge against him or her."

Amendment of section 57 of Act 3 of 2014

22. Section 57 of the principal Act is hereby amended by the addition of the following subsection:

"(4) The Minister may make regulations necessary to enhance tourist safety and the tourist guiding experience, including the setting of permissible ratios of tourist guides to tourists."

Amendment of section 59 of Act 3 of 2014

23. Section 59 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (f) of the following paragraph:

"(f) contravenes section 57(1), (2) [or] (3) or (4)."

Transitional provisions

24. (1) In this section—

"Amendment Act" means the Tourism Amendment Act, 2018; and

"principal Act" means the Tourism Act, 2014 (Act No. 3 of 2014).

(2) A person who is a member of the South African Tourism Board immediately before the Amendment Act takes effect, remains a member of the Board of South African Tourism for the remainder of his or her term of office or until the Minister appoints a new Board in terms of section 13 of the principal Act, whichever occurs first.

(3) Anything done or any decision or step taken by the Tourism Grading Council immediately before the Amendment Act takes effect, remains of force and effect and must be regarded as having been done or taken by South African Tourism.

(4) All the assets, liabilities, rights and obligations of the Tourism Grading Council immediately before the Amendment Act takes effect are hereby transferred to South African Tourism.

Amendment of Arrangement of Sections of Act 3 of 2014

25. The Arrangement of Sections of the principal Act is hereby amended—
- (a) by the substitution for the heading to Chapter 3 for the following heading:
"South African Tourism [Board]".
 - (b) by the substitution for item 10 of the following item:
"10. Functions of [Board] South African Tourism";
 - (c) by the substitution for item 11 of the following item:
"11. Powers of [Board] South African Tourism";
 - (d) by the deletion of item 12;
 - (e) by the substitution for item 21 of the following item:
"21. Funds of [Board] South African Tourism";
 - (f) by the substitution for item 22 of the following item:
"22. Application of Public Finance Management Act to [Board] South African Tourism";
 - (g) by the substitution for item 24 of the following item:
"24. Appointment and responsibilities of chief executive officer of [Board] South African Tourism"; and
 - (h) by the substitution for item 27 of the following item:
"27. Employment and remuneration policy of [Board] South African Tourism and appointment of staff"; and
 - (i) by the deletion of items 29 to 44.

Substitution of long title of Act 3 of 2014

26. The long title of the principal Act is hereby substituted for the following long title:

"To provide for the development and promotion of sustainable tourism for the benefit of the Republic, its residents and its visitors; to provide for the continued existence of the South African Tourism Board as South African Tourism; [to provide for the establishment of the Tourism Grading Council;] to regulate the tourist guide profession; to repeal certain laws; and to provide for matters connected therewith."

Short title and commencement

27. This Act is called the Tourism Amendment Act, 2019, and takes effect on a date determined by the President by proclamation in the *Gazette*.